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### *Youth Justice Pathways to Change*

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# Youth justice pathways to change: Drivers, challenges and opportunities

How and why does youth justice change? What is the nature of this change – constructive, regressive, real, rhetorical? Furthermore, what is the focus of this change – systemic, structural, political, philosophical, practical? This paper examines the pathways by which change is affected in youth justice, the mechanisms and processes operating along these pathways and the central challenges to understanding and implementing real change. We begin with the premise that change has been a constant in United Kingdom (UK) youth justice since the earliest differentiated responses to children who offend (see Case 2018), yet the extent and nature of this change has been complex, contingent and contested; oscillating between the aspirational, rhetorical and actual. Moreover, the pathways through which change has been achieved in the youth justice field have been opaque and beset by conflict and ambivalence regarding how to understand and treat children who offend. Throughout its trajectories of change, youth justice has, paradoxically, retained and supported a considerable stability in its organisation and approach and in terms of the outcomes experienced by children<sup>1</sup>. Stability has been the product of political, economic and academic investment in particular understandings of and responses to offending by children, which have been by-products and causes of entrenchment and resistance to change on the part of key stakeholders. The resulting inertia, protectionism and revolution (i.e. repeating and relying on past constructions of youth justice) has exacerbated conflict and ambivalence in the youth justice arena, whilst ‘change’ has tended towards the rhetorical and stochastic in nature - more apparent than real (McAra 2017). Furthermore, the assumptions of linearity that are redolent in historical narratives of change serve to over-simplify and even invalidate understandings of pathways. Where real change can be discerned, the pathways towards it are rarely linear and predictable and the influences on change are rarely simplistic or directly causal. Pathways are often catalysed by political responses to public debates, rather than effective youth justice practice, and thus characterised by zig-zagging policy changes. This has resulted in pathways which are at times chaotic, unpredictable, complex and multi-faceted in nature, with a progressively unfocused and confused model-base, as will become evident.

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<sup>1</sup> Following the United Nations Convention on the Rights of the Child definition of a ‘child’ as anyone aged up to 18-years-old (UNCRC 1989; see also Haines and Case 2015).

This paper examines *pathways to change* in youth justice - a broad arena populated by the systems, structures, policies, strategies, philosophies and practices that address offending by children (see Case 2018). Our primary focus will be the raft of sweeping changes experienced in the contemporary context of youth justice post-Crime and Disorder Act 1998 in England and Wales, with preceding changes explored selectively and where appropriate. Pursuing a comprehensive, definitive and internationally-informed history of change in youth justice is beyond the scope and focus of a stand-alone journal paper. The sheer breadth, complexity and longevity of youth justice preclude this. Whilst this enforced restriction leaves our arguments open to criticism, this paper is intended to test a number of assumptions and to open up an evolving debate regarding the nature of change in youth justice (including the implications for international jurisdictions) and how it can be constructed, understood and influenced. Accordingly, we explore the mechanisms, processes and key stakeholders driving and shaping change in contemporary youth justice, the challenges experienced along trajectories of change and the opportunities for enhancing youth justice presented by developing a better understanding of how change occurs. We apply an eco-systemic, critical analytical framework to identify and explore a series of macro-level (e.g. structural, philosophical, political), meso-level (e.g. organisational cultures and inter-relationships) and micro-level (e.g. practitioner-child relationships, practitioner discretion) influences upon policy change in contemporary youth justice in England and Wales. By analysing youth justice change as situated within *processes* that occur along complex and multi-faceted pathways, rather than as necessarily triggered by measurable causes acting in linear ways, we can develop 'a firm understanding of where we are, how we got there and where we want to go next' (Brett 2018: 36). This will enable an exploration of how contemporary youth justice might navigate its uncertain, unpredictable journey from this point forward, should we choose to learn the lessons of the past. Our analytical framework is constituted by a series of identified potential pathways to change that are distinct, yet mutually-reciprocal: political, paradigmatic, research-led and cognisant.

The nature of youth justice can be understood as shaped by dominant paradigms or models at any given point in time (see Case 2018). A 'model' of youth justice is a framework for rationalising responses to it through guiding theories, principles and strategies that are

operationalised and implemented through formal structures, processes and practices. No paradigm or model for understanding and responding to offending by children has yet been fully articulated by youth justice structures, strategies and processes. Instead, the nature of youth justice and its animation within bespoke ‘systems’ has been marked by conflict and ambivalence (Shore 2011) – thorough-going confusion, complexity and ultimately hybridity in preferred rationale, organisation and approach. The extent and nature of youth justice change, compared to its stability across historical periods, therefore, is both moot and ambiguous. One constant, however, has been a significant role of possibly *the* central driver of change in youth justice - the *political* sphere.

### **1. Political pathways**

Youth justice has been a political points winner since the earliest differentiation of children from adults when they offend. Since the mid-19<sup>th</sup> century, arguably from the late 18<sup>th</sup> century (see Shore 2011), successive UK governments have pursued reforms, often sweeping in nature, of youth justice structures, strategies, paradigms and practices. Related change has been pursued through political rhetoric, legislation and processes of monitoring/control balanced uneasily with support/guidance. The overarching aim of these reform/change activities has been variously economic, socio-cultural, principled, research-informed and pragmatic - but always political. Incumbent UK governments have exploited youth justice to cement their identity as proactive change-makers, implicitly and explicitly accusing predecessors (even from their own political party) of inertia and/or failure to enact change. The relentless push for change has even disregarded legacies of measurable ‘success’ in the Youth Justice System (YJS), such as the dramatic falls in first-time entrants in the 1980s and 2007-16 decades, both of which were strongly associated with increased diversion practice and precipitated unconstructive, counterintuitive responses – punitive criminalisation (1990s) and an urgent review of the YJS (Taylor 2016) by the new Conservative Government.

New governments commonly seek change in youth justice through ‘stochastic features of statecraft’ (McAra 2017) - differentiation from the past, re/constructing the youth justice architecture (e.g. structures), nurturing new audiences and introducing greater complexity into policy discourse. The pathways to this change are often ‘stochastic’ (often more rhetorical and apparent than real), typically pursued (at least in part) to fulfil political agendas, rather than implemented for tangible, beneficial, evidence-based or otherwise defensible reasons

(Bateman 2017), thereby becoming obstacles to real change. A cogent example of political influence through ‘statecraft’ was the 1990’s punitive turn by the Conservative Government - a turn away from diversion and minimum necessary intervention approaches (which proved practically and financially effective during the 1980s) and towards expensive and ineffective custody and formal intervention to appear tough on crime to the voting public (Muncie 2014). This represented a regressive step back to harmful and ineffective punitive youth justice paradigms of the past; a retrenchment from the progressive practices of the 1980s. The punitive turn, therefore, embodied stability (not change) in youth justice through stasis (not dynamism) and regression (not progression).

#### **Political influence in focus: The ‘dynamic’ minimum age of criminal responsibility**

A powerful historical illustration of stochastic ‘change’ (not to mention stalling and general inertia) in youth justice is provided by variations to the minimum age of criminal responsibility (MACR) in England and Wales. The 1933 Children and Young Persons Act raised the MACR from 7 to 8 years of age, and the 1963 Act then raised it again to 10. The 1969 Act made provision for the MACR to be increased to 14, but since its enactment coincided with a change of government, this was never actually realised. Furthermore, the provision of the presumption of *doli incapax* for children under 14 (meaning that the prosecution had to prove children’s understanding of the criminality of their behaviour, rather than mere naughtiness) was swept away in the 1990s’ ‘punitive turn’ and formally abolished by the Crime and Disorder Act 1998, which meant an effective lowering of the MACR.

There have been various calls for the MACR to be increased over the years, with the latest Private Members Bill coming from Lord Dholakia – his third attempt at raising it to 12-years-old. England and Wales have remained stagnant with a MACR of 10-years-old for well over 50 years, against intense United Nations criticism of any sub-12-year old MACR, citing the Beijing Rules (minimum standards on youth justice), asserting that children under 12 lack the emotional, mental and intellectual maturity to be truly responsible for offending

(McGuinness 2016). Notwithstanding this, currently the Government's position (similar to preceding governments of all colours) is that they have no plans to revise the MACR.

If political 'changes' prior to the Crime and Disorder Act 1998<sup>2</sup> steadily built towards the construction of a differential youth justice sector, albeit prevaricating between welfare-justice and all constructions of youth justice in between, developments since have done little more than tweak what is already in place and to encompass changing policies, government targets, and developing research understanding (not much of which has been complementary). These processes fit along a pathway to change characterised by superficiality (e.g. lazy assumptions of linearity), lack of criticality and over-riding pragmatism and politicisation – all obstacles to genuine progress. Subsequent changes to youth justice architecture have been more akin to a stochastic rearranging of the furniture (McAra 2017) through unreflective tinkering and bolting on. There has been a somewhat dogged adherence to the Risk Factor Prevention Paradigm (RFPP – see paradigmatic pathways section) as the main underlying model-base for the YJS, with any changes needing to fit within it to some degree – amounting to minor changes along a largely-stable policy trajectory. Such policy and practice commitment, particularly in the face of an incrementally critical evidence-base, suggests a degree of entrenchment; political, financial, practical and emotional investment in a pragmatic paradigm fitting a political agenda for managerialism, responsibilisation and neo-correctionalism (Case and Haines 2015).

Substantial change was discernible, however, through the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012. The LASPO Act reversed the tariff-based sentencing escalator of the Crime and Disorder Act, allowing once again for the cautioning of children, without ever-increasing levels of disposal (for example, a child who had previously served a prison sentence could be cautioned for a further, less serious, offence). After a decade of increasing system-activity towards children who offend, at last (and in response to research highlighting the damage of system-contact for children), it was acknowledged that more was not necessarily better. This led to reduced funding for the youth justice sector, justified by the falling numbers, and the notion that since the work of statutory, multi-agency Youth Offending Teams (YOTs) work was declining, the whole system could contract. The pathway to change

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<sup>2</sup> Following the Crime and Disorder Act 1998, a formal 'Youth Justice System' (YJS) was created for England and Wales, rather than for the whole of the UK - as youth justice legislative and policy responsibilities had been devolved to the new governments of Scotland and Northern Ireland.

here, occurring at a time of austerity could (as in the 1980s) be being driven purely by economics, albeit dressed up as addressing research concerns. However, whether incidental or deliberate, this sector reduction allowed children to escape the damaging clutches of the YJS thereby becoming an opportunity for beneficial change.

As identified, a recurrent theme in trajectory of youth justice is that successive governments cannot leave it alone. Accordingly, the new Conservative Government (2015) commissioned a review (likely austerity-driven) of an ostensibly successful system. This could potentially have revolutionised the whole sector, allowing for a (near) complete re-assessment, rather than tinkering at the edges of the existent system. While Charlie Taylor's (2016) resultant report offered interesting recommendations for change (e.g. paradigmatic shift to children first and education-focused responses, changing custody provision into smaller 'secure schools', abolishing the Youth Justice Board (YJB)), it stopped short of being particularly progressive (in, for example, specifically excluding a review of the MACR). However, by the time the report was published, Government personnel and priorities had changed, motivating a piecemeal acceptance of some recommendations, and complete rejection of others, notably the proposed abolition of the YJB (MoJ 2016). Still the basic structures of the YJS remained.

The drivers of change in youth justice have been largely political, due to the tendency for youth crime as a social issue/problem to be a vote-winner (or loser). However, this has often resulted in stochastic changes that never really challenge underlying model bases or offer real change. This politically-driven policy change has been compounded by a YJB with an uncertain path or future. The opportunities here have begun, however, with the LASPO Act making changes radical enough to significantly impact numbers of children drawn into, and remaining within, the YJS, whilst also increasing the prominence of diversionary programmes to maintain this beneficial decrease through the reintroduction of cautions for children. While this could be a numbers game with youth justice figures, it also provides real opportunities to ensure that children are shielded from damaging contact with a damaging system (see McAra and McVie 2007).

## **2. Paradigmatic pathways**

The current youth justice 'system' has been in place in some form for the entirety of the 21<sup>st</sup> century, but various governments have attempted to tweak it to fit either their different agendas

or newer thinking, without really questioning or necessarily understanding the very underpinning paradigm or conceptual ‘model’ upon which it has been built. This conceptual framework at different points in history, has exerted significant influence upon how the YJS has developed since its progressive inception. The treatment of children who offend has undergone many metamorphoses through the centuries. Socio-historical constructions of youth justice have oscillated between strategies such as punitiveness (e.g. custody), reform, justice (e.g. just deserts, proportionality), welfare, education, restoration, minimum-intervention/diversion and risk prevention to varying degrees at different points in time - often within complex and hybrid ‘mixed economy’ models (paradigms) that have been given expression by bespoke structures and processes (cf. Case 2018). As such, the evolution of youth justice is characterised as beset by recurring tensions, often embodying the conflict and ambivalence that still feature in 21<sup>st</sup> century youth justice debates. Successive government legislation has created a patchwork quilt system, with no discernible, coherent paradigm, philosophy or set of consolidating principles (see Muncie 2008), despite broad-brush caricatures framing historical youth justice developments within the perennial ‘welfare versus justice debate’ (Smith 2005). Indeed, by the 1990s, the welfare and justice elements of youth justice that had allegedly shaped its historical paradigmatic trajectory were being heavily criticised, with welfarism caricatured as laissez-fairer, justice as ineffectual (Smith 2005). The YJS was lambasted as ineffective and inefficient in the Audit Commission’s (1996) report ‘Misspent Youth’, which privileged contemporary risk-based models of assessment and addressment, most notably the RFPP (~~RFPP~~; Hawkins and Catalano 1992).

The RFPP embodied a paradigm shift for youth justice – no longer privileging welfare or justice, but rather a risk-led, neo-liberal *neo-correctionalism* (Hazel 2008). This was embraced by the ‘New Labour’ Government of 1997, which legislated the espoused ‘evidence-based’ risk approach into systems of assessment and (early) intervention through the Crime and Disorder Act 1998, thus animating their punitive, interventionist and vote-winning mantra ‘tough on crime, tough on the causes of crime’. The fit between paradigm and political agenda is palpable here. The RFPP was an ideal vehicle through which to pursue a ‘new youth justice’ (Goldson 2000) of neo-liberal responsabilisation, interventionism and managerialism, all couched in the language of ‘evidence-based’ policy. However, here the paradigmatic constructive influence constituted more of a post-hoc justification of pre-formed policy direction - more policy-based evidence than evidence-based policy. The RFPP was an idea



whose time had come (Case and Haines 2009), providing as it did a reliable (consistent) evidence-base to rationalise policy change. The government's lack of criticality and awareness regarding the robustness, completeness and appropriateness of applying this evidence-base since 1998 has been a constant bone of contention (cf. Goldson and Hughes 2010). Indeed, the RFPP has been subject to widespread evidential, methodological and ethical critique for two decades now due to its partiality (bias and incompleteness), self-replicating/fulfilling evidence-base, invalid, presumptive and overstated conclusions and its negative impact on understandings of children when they offend (Case and Haines 2015, 2009).

Thereafter, this 'new youth justice' system in the Crime and Disorder Act 1998, which carried with it unchallenged the ghosts of previous debates and controversies, became its own huge centralised, managerial universe – with managerialism functioning as the strategic vehicle through which to mobilise the RFPP and its associated agenda of responsabilisation. Multi-agency YOTs were created to deliver court-ordered face-to-face work to children, after assessment of their 'criminogenic needs' (risk factors framed as the 'causes' of crime), which were overseen by the centralised YJB. Discretion for responses to 'youth offending' was discarded in favour of an interventionist, criminalising tariff/escalator, bringing children far more inevitably to court, with severely limited pre-court options. The result was an explosion of numbers at all stages of the process, from first-time-entrants to those being given custody. Interventions were seen as essential to help children address the reasons for their offending, conceptualised as largely within the individual or their immediate context (ultra-positivism). External issues increasing the 'risk' of offending (like poverty) were acknowledged, but unchallenged by the response, despite multi-agency teams capable of addressing wider more structural elements of risk, including health, education, and family-based issues. The potential for addressing these was largely missed by the individual focus of risk-led YOT practice, but potentially points the way for a more constructive development.

The paradigmatic drivers of youth justice policy development can be seen as largely political in nature, reacting to public concerns, and contributing to the punitive turn of the 1990s, justified through reference to outdated and questionable literature. The culmination for contemporary youth justice – a paradigm shift towards risk as dominant – saw a move away from the welfare-justice debate, creating a system which is neither protective nor just for the children it subsumes. The challenge from this is how the YJS can move into the new world of

the twenty-first century, with its changing perceptions of ‘youth’ and attempts both to reframe the hegemonic risk-led evidence-base and to foster new research frontiers to develop different evidence with which to inform policy and practice.

### **3. Research-led pathways**

The influence of empirical research and academic scholarship on the nature of youth justice, often through interactions with political and paradigmatic pathways, has waxed and waned historically. Academia has played a role in shaping political definitions (constructions) and explanations (theories) of offending by children, including contributing empirical and scholarly evidence to the pivotal constructions of ‘child’, ‘youth’ and ‘offending’ (Case 2018). Academics and researchers have also contributed to debates around appropriate and effective responses to offending behaviour (i.e. ‘youth justice’). However, reflective of academia itself, a large degree of subjectivity and partiality has guided government and its agents (e.g. YJB) in their prioritisation of particular definitions, explanations and responses over alternatives. Political acceptance of, and resistance to, the academy has fluctuated widely, often dependent upon political expediency. Examples of governmental conflict and ambivalence regarding academia are abundant. They include the early 20<sup>th</sup> century political embracing of Hall’s (1904) construction of ‘adolescence’ that reconciled the innocent child-dangerous offender paradox (Case 2018), the 1980s ‘successful revolution’ towards diversionary practice (Allen 1991), the 1990s punitive turn that contradicted the existing (academic and empirical) effective practice evidence-base (Bateman 2017) and the ‘new youth justice’ reconstruction of the entire YJS around the empirically-hegemonic RFPP (Hampson 2018). The overriding implication is that research-led (academic, scholarly) influence populates pathways to change in youth justice largely when it suits political agenda in response to specific socio-political/cultural/economic contexts and changes - the selective integration of political *expediency* with research *evidence* (Smith 2014). This again implies a political driver, rather than research evidence - leading to policy-based evidence over evidence-based policy. The development of the YJS as underpinned by the RFPP is a good example, as the model-base itself has become an obstacle to progress towards practice likely to reduce children’s offending.

### **The RFPP as an obstacle to policy and practice change**

The RFPP rose to prominence as a significant influence on youth justice in England and Wales on the back of a burgeoning emphasis on cogent evidence-base, most notably, evidence from the longitudinal, multi-method Cambridge Study in Delinquent Development (the ‘Cambridge Study’ - West and Farrington 1973; Farrington 2007). Over nearly 60 years, the researchers repeatedly identified psychosocial risk factors in childhood and adolescence (in family, school, neighbourhood, peer and individual domains of life) that statistically predict later offending and associated aspects of a ‘criminal career’ (e.g. onset, persistence, escalation). These risk factors have been the cornerstone of risk assessment and intervention processes that have shaped YJS policy and practice since 1998.

The replicability of this risk factor evidence-base across the Cambridge Study, and the wealth of research studies that it has influenced, has been a key rationale for embedding its findings within youth justice processes. However, replicability, possibly suffering from confirmation bias, has been privileged to the neglect of the clear weaknesses and limitations in the study. The Cambridge Study has produced findings that when applied to contemporary youth justice can be considered to be: androcentric (focused only on young males), class-centric (focused only on the working class) and urban-centric (generated without accessing rural samples); not to mention out-dated (generated in the 1960s and applied uncritically over 50 years later) and demonstrating psychosocial bias (e.g. not considering socio-structural or situational influences) - thus rendering these findings of limited ecological validity, generalisability and transferability/applicability. Dogged and uncritical governmental adherence to the RFPP justified by the Cambridge Study is indicative of an entrenched bias-driving policy agenda fuelled by policy-based evidence-approaches promoting inertia.

Notwithstanding the dominance of the RFPP-led thinking and practice in youth justice, however, academia could offer a different pathway to change. Contemporary criminological research has prioritised eliciting the voices of children who offend to investigate how they experience, construct and negotiate ‘risk’ in qualitative, personally-meaningful ways (cf. the Edinburgh Study - McAra and McVie 2015, 2007; the Teesside Studies - MacDonald 2007; the ESRC Pathways projects - France and Homel 2007). Evidence-based constructivist

understandings of how children negotiate and resist ‘pathways’ into and out of offending have subsequently influenced children first policy formations in Wales (e.g. the ‘Children and Young People First’ youth justice strategy - Welsh Government and YJB 2014) and the nascent ‘Participation Strategy’ of the YJB for England and Wales (YJB 2016).

Associated research has begun to incorporate *desistance* thinking into youth justice work, shifting the focus from factors allegedly leading to offending (risk factors), onto reasons for its cessation. A major current desistance focus is on pathways to changing personal narratives, away from self-identifying as an offender, and towards identifying as a non-offender. There is an inherent difficulty in applying extant desistance research, which is largely adult-centric, directly to youth justice, since children are not considered to have a hardened criminal identity, seeming to ‘drift’ in and out of crime, without commitment to it (Matza, 1964). However, there is now an emerging literature-base of complementary research looking at applications for children (see for example Barry 2006; Johns et al., 2016). Therefore, a slightly different understanding has been adopted; one focused on maturity as facilitating desistance (Rocque 2015). For years, children who commit crime infrequently, or seriously, have been treated as criminals within a criminal system. However, the pathway to change is an academically-driven, conceptual/paradigmatic shift from the deficit-focused risk agenda towards more promotional, strengths-based approaches, so the time is ripe for a different approach.

The incremental development of youth justice-based research brings with it opportunities to address the challenges to progression and evolution should the political will emerge. A lack of evidence-based, research-informed consensus around new concepts and approaches in youth justice (e.g. the participation and desistance agendas) is a key issue for academia and for policy and practice development. It can result in confused and contradictory messages to practitioners, children and the general public. Additionally, the power of academia to promote reform and change in youth justice through evidence generation can be mitigated by political expediency and professional experience (see Smith 2014), which may explain the somewhat piecemeal way in which strategic concepts such as ‘desistance’ are integrated into the existent YJS through practice and process. There are tentative signs of an emerging focus on bridging the academic-professional and integrating academic research understandings into the development of youth justice. Notably, the ‘Academic/YOT Partnership Working Guide’ (YJB 2017) encourages collaboration between the youth justice sector (n.b. YOTs, not the YJB itself) and

the academic/research community. The guide asserts that such partnerships will enable youth justice workers to access expert advice and training (from academics/researchers) and will provide academics with valuable access to youth justice data and staff – with the objective of developing effective practice. Two notable examples of these symbiotic partnerships are Greater Manchester Youth Justice University Partnership and Hwb Doeth in Wales. Greater Manchester Youth Justice University Partnership was established in 2014 and has set up a Knowledge Transfer Partnership between Manchester Metropolitan University and the Greater Manchester youth justice services. Hwb Doeth is somewhat newer, having begun in 2017, and was a development of the already existent Practice Development Panel of YJB Cymru. It now encompasses all universities and YOTs within Wales, so that mutually beneficial research can be facilitated, and practice developed as a result.

These developments demonstrate that while historically there has been something of a gulf between those at the coal-face of youth justice practice and those seeking to research effectiveness in the field, resulting in delays in communication or even politically-expedient side-lining of new knowledge, the future seems able to promise more cross-pollination between research and practice, which could be a driver for policy and legislative change.

#### **4. Cognisant pathways**

A perennial, yet often unrecognised issue (a potential enabler and obstacle) to affecting change in youth justice is that of *cognisance* - knowledge, awareness and understanding of the paradigms/models, concepts, theories and tenets that drive the field. Cognisance is not necessarily consensual or equitable between key stakeholders in youth justice. Levels of cognisance can vary between and within the stakeholder organisations and local areas, influencing the validity (accuracy, comprehensiveness and appropriateness) of understandings of youth offending and youth justice and the transfer of policy into practice in linear and consistent ways. One obstacle to consistent and effective policy generation and implementation in practice is the unacknowledged and somewhat inevitable *partiality* (bias and incompleteness) in the cognisance of key stakeholders. Partiality influences and shapes everyday youth justice practice, manifested in organisational agendas and priorities. A key exemplar is the YJB itself, the strategic lead for youth justice work in England and Wales, and so the central hub for effective practice for YOTs. Arguably, the YJB retains a somewhat problematic and confused understanding of key youth justice concepts such as desistance,

prevention, and diversion – all still indelibly tainted by the risk agenda. This deficit-led, risk focus, which consolidates constructions of dangerous, troublesome children, has been used to justify continued support for punishment in sentencing guidelines, despite its original rationale being to inform preventative practice. The result has been mixed messages communicated to practitioners, exemplified by a disconnect between the rationale for youth justice approaches, hegemonic sentencing strategies and recommendations for working practices.

At the paradigmatic/conceptual level, for example, there is deep-rooted confusion and misunderstanding regarding prevention, the central plank of youth justice policy and practice, and the primary aim of the YJS. Prevention is regularly conflated with related, yet distinct principles such as early intervention and diversion in youth justice policy and practice guidance. The prevention of offending is not synonymous with early intervention (typically operationalised as identifying and targeting measurable risks for offending); nor is it synonymous with diversion (redirecting children away from the formal YJS and into other services). Neither is the prevention of offending (for the first time) synonymous with the prevention of *reoffending*; nor does it necessarily share the same risk factors if this is to be the evidence-base relied upon. Furthermore, prevention (similarly early intervention and diversion) need not be risk-focused and/or targeted/individualised, but the YJB and government appear insistent that it should be. Even when targeted and individualised, prevention practice can focus on addressing children's needs, wishes, rights, strengths and opportunities, rather than emphasising risk factors (Haines and Case 2015). Partiality towards risk-focused prevention artificially restricts the scope and ambition of pathways to change - wedding it to neo-correctionalist, retrospective and deficit-focused perspectives. Partiality towards the continued conflation of prevention, early intervention and diversion along pathways to change is indicative of both misunderstandings and neglect of their fundamental differences in philosophy and approach, which itself can artificially restrict practice when (mis)translated by youth justice staff.

At the practice level, the YJB has sought to develop newer academic thinking in criminology around desistance within youth justice and to implement this within the AssetPlus assessment-intervention process. However, they have not acknowledged the potentially poor fit for 'desistance' with children, discussed earlier. Desistance work in youth justice might be better considered as promoting pro-social development, rather than facilitating children to completely

change direction (more associated with adult desistance). This means that the YJB has embedded ‘desistance’ within its parameters, rather than pro-social development, possibly indicating a lack of understanding both of desistance as a concept or process, and of adult-centric research into this area. An attitude which considers children to be ‘mini-adults’ should have long been consigned to history, but appears to have been resurrected here, constituting an obstacle to the adoption of more relevant aspects.

Another, possibly more devastating, issue is that although much of the desistance literature concentrates on the importance of working with strengths and facilitating personal identity shift towards the non-criminal, necessarily meaning a move away from risk-centric thinking (which results in negative offence-focused working), this appears to have been ignored in documents from both the YJB and Her Majesty’s Inspectorate of Probation (hereafter ‘the Inspectorate’). Indeed, the Inspectorate’s thematic inspection report formulated ‘desistance’ quite differently from the YJB, surely creating systemic confusion for practitioners in both cognisance and outworking of this into practice (Hampson 2018). Both institutions have made significant alterations to their expectations, as evidenced by the current assessment tool of AssetPlus for the YJB (2014), and the new inspection framework for the Inspectorate (2017), to incorporate desistance, but to which model should YOTs align themselves? Additionally, this has resulted in an uncomfortable mixture of model-base, since the RFPP still underpins YOT working (and Inspectorate inspections), but now with something of an additional desistance ‘bolt-on’. AssetPlus, in still being a risk assessment tool (risk of reoffending, risk of serious harm to others and risk of vulnerability) seems to ask practitioners to combine opposing models, resulting in an unhappy emulsion, potentially compromising the effectiveness of positive, strengths-based interventions. Any pathway to change in paradigmatic model-base towards a more positive strengths-based approach needs sound understanding of the research by those propounding the changes, and a purer application without the pollution of the previous risk approach.

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| <b>Desistance-focused assessment</b> |
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There is some evidence through examinations of AssetPlus that positive work with children is now understood, welcomed and justified in intervention plans (cf. Hampson 2018). However there is a lack of emphasis on positive working which could facilitate pro-social development incidentally, for example taking quality time to build relationship between worker and child/young person. Although most workers acknowledge the importance of this, it is seen as a pre-cursor to the 'more important work' of reducing risk; evidenced by two of the five 'key areas of intervention' being negatively phrased; 'not offending' and 'not hurting others', invites specific interventions, rather than seeing pro-social development as addressing them more naturally. Consequently, managers still look for risk-reducing work (as defined by the RFPP) to be undertaken, dragging children back to offence-focused work, which does not allow them to see themselves differently. Practitioners have expressed this concern, that it has held them back from fully embracing positive-focused interventions. They have also voiced that courts expect such documents as Pre-Sentence Reports to address risk as a priority, which requires identifying offence-focused work as a major goal of any intervention. Until magistrates and judges understand such approaches, practitioners feel they will be hampered in their efforts to employ them (Hampson 2018). This demonstrates a much wider issue with cognisance than just the YJB and YOTs.

Notwithstanding tinkering at the edges and stochastic statecraft as examples of change within youth justice, YOTs have had to make sense of much tangible change over the years since their inception, from varying YJB 'Key Performance Indicators', the introduction and subsequent changes to National Standards, the strictures of actuarial risk assessments and the move to a less risk-obsessed assessment framework. The earlier changes driven by the Crime and Disorder Act 1998 placed more structure around YOTs, progressively eroding practitioners' skills and decision-making, whilst 'prescribing' cognisance to an extent - privileging partial governmental/YJB understandings of the central drivers of effective youth justice. Since the Scaled Approach (the peak of external interference), requirements have progressively reduced, leaving more responsibility for decision-making and the development of expert, nuanced understandings with practitioners themselves. This transition to more autonomy has been difficult, requiring practitioners to have more individual understanding, leaving many lacking confidence in their skills and ability to complete a somewhat less structured assessment (AssetPlus) (Hampson 2018). This offers great potential for practitioners to embed change into their practice, but without adequate training, is a difficult path to tread and threatens a



disconnect between policy and practice. Compounding this issue, YJB and the Inspectorate cognisance of desistance approaches appears variable and at odds, leading to confused messages being filtered down to managers and individual YOT workers. For example, the Inspectorate's thematic inspection on desistance (2016) identified the building of positive empathic relationships as key, whereas this aspect of working was not even mentioned within the AssetPlus rationale document, or given house-room within the structure of that assessment (YJB 2014). This, when coupled with insufficient training (or ineffective training methodology), potentially turns an opportunity into an obstacle.

Finally, the facility for practitioners to develop constructive relationships with children along pathways to practice change is also dependent on relationships further up the ladder. YOT workers are answerable to managers, who supervise their work and offer guidance for future development. If YOT managers are not fully cognisant of changes in policy, and the underlying models, then their expectations of workers could tend towards being risk-focused, as this is the only way prevention is perceived to be operational. In part this is fuelled by (confused and confusing) communications from the YJB, but also from the inspectorate, both agencies, having conflated desistance and risk into the same arena (mainly regarding AssetPlus). However, the ladder continues upwards, with both the YJB and inspectorate being answerable to government, and therefore aiming to service the priorities of whoever is in power (with all the resultant emphasis on vote-winning policies to reassure the public that the 'problem' of youth is being addressed). The filter which this gives governments in the interpretation of research provides for an uneasy relationship with academia, resulting in policies which only reflect findings sympathetic to their political cause.

There appears to be little agreement or understanding within and between key structures and organisations of the YJS at all levels regarding how to understand and implement central concepts of youth justice such as prevention, diversion and desistance, which can translate into difficulties for practice. This lack of cognisance in key areas, including youth justice model-base, has resulted in new developments, promising for future development, being promoted and rolled-out in inconsistent, partial and confused ways. Any disconnect in cognisance between key stakeholders could be addressed by developing closer working relationships to critically reflect upon the central tenets and driving concepts of youth justice. Although there is a tentative focus on this situation through the academic/partnership agenda (YJB 2017, there

appears little appetite from the YJB for England and Wales (as opposed to YJB Cymru) to work more closely with YOTs (beyond tokenistic and post-hoc ‘consultation’ exercises) or academics/researchers to critically interrogate and develop shared understandings of the essential premises of youth justice nationally. The future progression of youth justice policy understandings and their implementation in meaningful practice would seem to largely rely on the YJB modelling the work of YJB Cymru and key youth justice services in England (e.g. Surrey’s Youth Support Service – see Byrne and Case 2016, the Greater Manchester Youth Justice University Partnership – see Axon and Jones, in Case 2018) in terms of engagement with academic research/critical friends and engagement with its own mantra of effective practice development through evidence-based policy and critical reflection.

### **Discussion: Pathways to change in youth justice**

It is apparent that the pathways to change in the systems, structures, strategies, policies, philosophies and practices of youth justice in England and Wales have been and remain non-linear (even arbitrary), multiple, contested and multi-faceted. Pathways to change are constituted by a series of inter-related and dynamic influences that can be categorised as paradigmatic, political, research-led and cognisant. However, despite the ostensible dynamism of the youth justice policy field, related changes are not always real or substantial and can be stochastic and rhetorical - anchored to stability and manifested through tinkering and bolt-ons, themselves often the product of socio-political economic anxieties, investment, entrenchment and austerity. We assert that the pathways to real change in youth justice policy are fraught with difficulty, with many voices seeking to be heard in its current and future development. The Government (operating along political pathways) is ultimately the key driver for change, experienced through the centuries as an increasing need for children to be treated differently to adults, yet with disagreement on how that should look. We are inclined, therefore, to support Phoenix’s (2016: 124) observation of a fundamental rupture in the relationship ‘between *how* we deal with youth crime (i.e. the processes, procedures and provisions) and *why* we do it (i.e. any higher philosophical or ethical goals)’. Consequently, more attention should be paid to the paradigmatic and research-led pathways to change that inter-relate with and impact upon cognisant pathways to change, with a view to encouraging more reflectiveness and reflexivity in political pathways and the relationships between key stakeholders who interact across youth justice processes. Despite a necessary focus on the England and Wales context, adopting the pathways lens identifies lessons that are clearly transferable to other jurisdictions in terms of

how to examine the development of youth justice and how to understand the operation and complexities of the influences upon this development.

Influencing government is always the pervasive, populist and punitive voice of the media, purporting to be the voice of the ordinary person in the street, which politicians ignore at their peril. Less influential, yet typically more balanced and better informed, has been the voice of the critical academic and empirical researcher operating along research-led pathways, particularly those outwith the developmentalist RFPP movement (functioning within paradigmatic pathways). Seemingly marginal to all of these influencers have been youth justice practitioners working at the coal face with children - who have been even less influential and often entirely unheard. Returning to our title, it could be argued that the drivers (including their related obstacles), challenges and opportunities operating along identified pathways to change in youth justice are essentially different sides of the same coin. The paradigmatic, political, research-led and cognisant drivers of change need to be mobilised in order to overcome obstacles to change (e.g. inertia, austerity, misunderstandings), to address the challenges of contemporary youth justice (e.g. doing the same or more with less) and to maximise opportunities for growth and progress (e.g. towards a children first system).

It must be acknowledged that there are some promising green shoots of opportunity emerging within youth justice policy and practice development, assisted by research indicating the utility of diversion, minimal intervention and strengths-based, pro-social and positive practice. The incorporation of desistance approaches into YJB guidance and the AssetPlus framework, for example, coupled with a new, more positive, the Inspectorate's inspection framework and emerging academic/YOT partnerships, shows a promising direction of travel. Some individual localities are evidently developing good practice in this area, which is to be commended and provides direction elsewhere, where progress has perhaps been slower. There appears to be an appetite for change amongst practitioners, who recognise the benefits of working positively with children (especially those who have been in the system long enough to remember pre-Crime and Disorder Act working), but who are not sufficiently confident to entirely cut the apron strings of the RFPP. Consequently, this is a potential driver for change, but wrapped up within an obstacle.

### **Turning challenges into opportunities and recommendations**

There are, therefore, significant challenges facing the sector if change is to be holistic, effective and permanent, rather than regressive or stochastic. Opportunity lies in identifying and clarifying the most appropriate model-base for youth justice without relying on research with adults or conflating models of risk and desistance. This then needs to be communicated effectively with youth justice practitioners and their managers, to provide sound understanding upon which to base their work and defend decisions. Such communication needs to go much further than the YOTs, so that the judiciary are also able to understand the model-base of reports. Another challenge is to encourage stakeholders across the system to appreciate the value of allowing children to participate in intervention decision-making. The role of the YJB seems pivotal in addressing the contemporary challenges faced by youth justice and embedding change within practice. More generally, policy and practice appear to be evolving towards the increasing integration of the youth justice agenda and its animating structures (e.g. YOTs) within wider children's systems and services (see Taylor 2016). Therefore, a comprehensive and valid examination of change in youth justice should adopt a broader purview - analysing the multiple different institutions, organisations, practices, relationships and discourses involved in responding to children in trouble/need and the buried socio-political, economic, legal and evidential influences on their respective and combined abilities to affect change.

Considered in the round, the contemporary youth justice context offers an open playing field for those seeking meaningful change. Socio-political economic uncertainties and anxieties conspire to produce an 'ironic storm', wherein ostensibly poor conditions for change actually present opportunities for significant change. This change can be driven by local innovation, organisational/practitioner discretion and closer working relationships between stakeholders (including children), rather than shaped by excessive managerialism, governance and prescriptions. Whether this change is necessarily centralised, formalised or supported financially is another question! There is an opportunity to really change policy focus away from a negative risk-led model, turning instead towards a strengths-based positive model that facilitates pro-social development and positive outcomes for children - thus attempting to heal the rupture between the how and the why of youth justice. This necessitates, however, viewing children who offend as children first, rather than focusing on their offending behaviour. Desistance literature indicates that concentrating on the positive is effective in reducing offending (at least for adults), so applying a 'Children First, Offender Second' (CFOS – Haines and Case 2015) model appeals. Currently, the potential for such change is seriously

compromised by clinging to facets of risk-thinking as the only way of reducing re/offending behaviour. This negative, retrospective, risk perspective is anathema to change and progress, but is also beginning to be rebuffed by growing research looking at children's pro-social development, rather than thinking in terms of desisting from having a criminal identity (which does not typify children's offending). Concurrently, the CFOS paradigm is beginning to pervade policy change, or at least, recommendations for policy change in England and Wales. The new Inspectorate inspection framework for YOTs (HMIP 2017) specifically assesses children's participation in the whole youth justice process, including co-production of intervention plans. This ethos is starting to characterise strategic and policy responses in England and Wales, with direct reference to 'children first' principles in the national policing strategy for children ('Child Centred Policing' – NPCC 2015), sentencing guidelines for violent and sexual offenders (Sentencing Council 2015), national youth justice for Wales ('Children and Young People First' – YJB and Welsh Government 2014), recommendations for reorientation of the entire YJS (Taylor 2016) and proclamations from the YJB signifying wholesale strategic changes towards a 'children first' approach prioritising rights, strengths, engagement and diversion (YJB 2018: 7).

What has become 'clear' across the piece is the lack of clarity regarding how change occurs in youth justice and the nature of this change. The mooted pathways to change are very probably inter-related and most definitely complex, nuanced, non-linear and subjective in nature. Notwithstanding this complexity, the multiple, inter-related and dynamic nature of these influences also presents an opportunity for key stakeholders working between and within different youth justice contexts and organisations; an opportunity to collaborate on an holistic and consensual agenda for change. We assert the need for policy, practice and perspective change in youth justice - a progressive and positive change (e.g. extending the 'children first' trajectory of change) in paradigmatic and political terms, a change that is simultaneously research-led, easier to communicate and understand (facilitating cognisance) and is foundational for robust relationships - all of which are significant influences along the pathways to change in youth justice.

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